No.



200100206

HIR UNITED SEATES OF AVIERIOA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Spagenta Seeds, Inc.

THETE'S, THERE HAS BEEN PRESENTED TO THE

Secretary of Agriculture

AN APPLICATION REQUESTING A CERTIFICATE OF PROTECTION FOR AN ALLEGED DISTINCT VARIETY OF SEXUALLY REPRODUCED, OR TUBER PROPAGATED PLANT, THE NAME AND DESCRIPTION OF WHICH ARE CONTAINED IN THE APPLICATION AND EXHIBITS, A COPY OF WHICH IS HEREUNTO ANNEXED AND MADE A PART HEREOF, AND THE VARIOUS REQUIREMENTS OF LAW IN SUCH CASES MADE AND PROVIDED HAVE BEEN COMPLIED WITH, AND THE TITLE THERETO IS, FROM THE RECORDS OF THE PLANT VARIETY PROTECTION OFFICE, IN THE APPLICANT(S) INDICATED IN THE SAID COPY, AND WHEREAS, UPON DUE EXAMINATION MADE, THE SAID APPLICANT(S) IS (ARE) ADJUDGED TO BE ENTITLED TO A CERTIFICATE OF PLANT VARIETY PROTECTION UNDER THE LAW.

NOW, THEREFORE, THIS CERTIFICATE OF PLANT VARIETY PROTECTION IS TO GRANT UNTO THE SAID APPLICANT(S) AND THE SUCCESSORS, HEIRS OR ASSIGNS OF THE SAID APPLICANT(S) FOR THE TERM OF TWENTY YEARS FROM THE DATE OF THIS GRANT, SUBJECT TO THE PAYMENT OF THE REQUIRED FEES AND PERIODIC REPLENISHMENT OF VIABLE BASIC SEED OF THE VARIETY IN A PUBLIC REPOSITORY AS PROVIDED BY LAW, THE RIGHT TO EXCLUDE OTHERS FROM SELLING THE VARIETY, OR OFFERING IT FOR SALE, OR REPRODUCING IT, OR IMPORTING IT, OR EXPORTING IT, OR CONDITIONING IT FOR PROPAGATION, OR STOCKING IT FOR ANY OF THE ABOVE PURPOSE, OR USING IT IN SODUCING A HYBRID OR DIFFERENT VARIETY THEREFROM, TO THE EXTENT PROVIDED BY THE PLANT VARIETY SECTION ACT. (84 STAT. 1542, AS AMENDED, 7 U.S.C. 2321 ET SEQ.)

SOYBEAN

'S38-E9'

In Testimon Marrest, I have hereunto set my hand and caused the seal of the Plant Anxiety Arstection Office to be affixed at the City of Washington, D.C. this third day of December, in the year two thousand one.

Attest:

Bal M. Zankoul

Commissioner Plant Variety Protection Office Agricultural Marketing Service Gentlereman

U.S. DEPARTMENT OF AGRICULTURE AGRICULTURAL MARKETING SERVICE SCIENCE AND TECHNOLOGY - PLANT VARIETY PROTECTION OFFICE			The lofowing state nents are made in accordance with the Privacy Act of 1974 (S.U.S.C. 552a) at the Paperwork Reduction Act (PRA) of 1995.				
APPLICATION FOR PLANT VARIETY PROTECTION CERTIFICA (Instructions and information collection burden statement on reverse)			Application is required in order to determine if a plant variety protection certificate is to be issued (7 U.S.C. 2421). Information is held confidential until certificate is issued (7 U.S.C. 2426).				
1 NAME OF OWNER				2. TEMPORARY DESIGN EXPERIMENTAL NAME	ATION OR	3. VARIETY NAME	
Syngenta Seeds	, Inc.			J565341, X		S38-E9	
4 ADDRESS (Street and No., or R.F.D. No.	o., City, State, and ZIP Code, and Cour	πάγ)		5. TELEPHONE (include a	rea code)	FOR OFFICIAL TISE ONLY	
P.O. Box 959				763-593-73	33	PVPO NUMBER	
Minneapolis MN	, 55440			6. FAX (include area code)	ZU	0100206	
7 IF THE OWNER NAMED IS NOT A PER	SON" GIVE FORM OF	1 a = W0000				5/3/2001	
ORGANIZATION (corporation, partnership, association, etc.)		STATEOF	NCORPORATED, GIVE 9. DATE OF INCORPORATION		NON		
10. NAME AND ADDRESS OF OWNER REPRESENTATIVE(S) TO SERVE IN THIS APPLICA			ware 	1976			
John C. Thorne Syngenta Seeds, P.O Box 949 Washington, IA						FILING AND EXAMINATION FEES: S 2705, 00 E DATE 5/3/3001 C CERTIFICATION FEE: 1 320 DATE 9/4/01	
11 TELEPHONE (Include area code)	12. FAX (Include area code)	13,	E_MAIL		14. CROF	P KIND (Common Name)	
319-652-2181	319-653-4609	Jo	hnc.Thorn	e@syngenta.o	om	Soybeans	
15 GENUS AND SPECIES NAME OF CROP		16.	FAMILY NAME (Bolanic	17. IS THE VARIETY A FIRST GENERATION HYBRIO?			
Glycine max			Leguminos	:a <i>e</i>		□ λε2 ³□ νο	
18. CHECK APPROPRIATE BOX FOR EACH A	ATTACHMENT SUBMITTED (Follow &		19. DO€S THE C	WNER SPECIFY THAT SEED		RETY BE SOLD AS A CLASS OF	
a. Digit A. Origin and Breeding h	listory of the Variety		CERTIFIED	SEED7 See Section 83(a) of YES (14" 'Yes", answer items 20 and 21 below)	_	∏ HO (π "no," go ta itæra ZZ)	
b. F Exhibit 8, Slatement of Distincts c, F Exhibit C, Objective Description	•		20. DOES π ₀ € O	WHER SPECIFY THAT SEED (OF THIS VAR	UETY BE LIMITED AS TO NUMBER	
d. Exhibit O. Additional Ossaription e. FI Exhibit E. Statement of the Basis		,	OF GENERA	ES	. []но	
Vouctor Sample (2,500 viable un verification that lissue culture will repository)	treated seeds or, for tuber propagated be depositied and maintained in an ap 50), made payable to "Treasurer of the	pproved public	_	TEM 20, WHICH CLASSES OF OUNDATION [] REGIS	_	N BEYOND BREEDER SEED?	
ZZ. HAS THE VARIETY (INCLUDING ANY HAR FROM THIS VARIETY BEEN SOLD, DISPO OTHER COUNTRIES?	VESTED MATERIAL) OR A HYBRID I	PRODUCED IN THE U, S, OR	23. IS THE VARIE PROPERTY F	ETY OR ANY COMPONENT OF DIGHT (PLANT BREEDER'S RIC	THE VARIET	TY PROTECTED BY INTELLECTUAL SHIPT	
TYES YES FYES, YOU MUST PROVIDE THE DATE OF FOR EACH COUNTRY AND THE CRICIANS	M NO PT: 413/21 OF FIRST SALE DISPOSITION TRA STANCES, (Please use space indicate	espite or use	F YES, PLEAS	ES SE GIVE COUNTRY, DATE OF I NUMBER. (Please use space in	ILING OR IS	d no 87:4/13/2001 per Schnice and Asking The required	
24. The owners declare that a viable sample of b for a suber propagated variety a tissue culture. The undersigned owner(s) is(ere) the owner, and is entitled to protection under the provision. Owner(s) is(are) informed that take represent.	 will be deposited in a public reposite of this sexually reproduced or tuber produced or tuber produced ons of Section 42 of the Plant Variety in 	ory and meintaine ropegated plant vi Protection Act,	d for the duration of the sciety, and believe(s) the	certificate,		•	
ICAUTURE OF OWNER		<u> 711 711 14 </u>	SIGNATURE OF O	WNER			
IAME (Please print or type)	· -		NAME (Please prin	t or type)	· · · · · · · · · · · · · · · · · · ·		
John C. Thorne	·····						
APACITY OR TITLE	OATE		CAPACITY OR TIT	LE		DATE	
Director of Soybe	an breeding		ı			1	

EXHIBIT A

Origin and Breeding History of S38-E9

In the summer of 1993 the Syngenta Seeds, Inc. (formerly Novartis Seeds, Inc., Northrup King Co.) breeding group at St. Joseph, IL, made the cross 'S 35-35' x 'A3200' from which the variety S38-E9 is derived. S 35-35 is a commercial cultivar marketed by Syngenta Seeds, Inc. A3200 is a commercial cultivar marketed by Asgrow Seed Co.

The F1 and F2 generations were grown at the Syngenta Seeds, Inc., Research Center near Kekaha, Kauai, HI in the winter of 1993-94. The F3 generation was grown at St. Joseph in the summer of 1994; the F4 and F5 in Kekaha in the winter of 1994-95; and the F6 at St. Joseph in the summer of 1995. The F3 and F6 populations were sprayed with sulfonylurea herbicide to eliminate susceptible plants. The F2, F4, and F5 generations were advanced using a modified system of single seed descent. Single sulfonylurea tolerant F6 plants were harvested in the fall of 1995 and threshed individually. The progeny from these plants were yield tested in a preliminary yield trial in the summer of 1996. One of these, designated J565341, was chosen for advancement. J565341 was tested in extensive replicated trials in the central and mid-southern United States from 1997 through 2000 and found to perform well compared to other late Maturity Group 3 varieties. It was tested in the greenhouse at the Syngenta Seeds, Inc. Research Center at Bay, AR, for resistance to *Phytophthora sojae* and found to have the Rps1-c gene for resistance. It was tested for tolerance to sulfonylurea at Illinois Crop Improvement Association, and found to be 100% tolerant. It was also found to have purple flowers, tawny pubescence, tan pod walls, and seed with yellow seed coats and black hila (may contain up to 2% other hilum color). During 2000 it was tested under the experimental designation X038STS, and based on its yield superiority and disease resistance, it was released in December of 2000 as S38-E9.

During the winter of 1997-98, 200 seeds of S38-E9 was rogued for hilum color and planted at Kekaha. Approximately 100 plants were harvested and threshed individually. The seed from each plant was planted as a progeny row at St. Joseph in the summer of 1998. This increase was rogued carefully, and all rows not conforming to the variety description or with off-type plants were removed. Remaining rows were bulk harvested. This seed was planted near the Syngenta Seeds Research Center at Washington IA in the summer of 1999. This increase was rogued carefully at flowering and maturity, and any off type plants were removed. It was then harvested to produce Breeder Seed.

Foundation seed of S38-E9 was produced by Syngenta Seeds, Inc. in the summer of 2000 and found to meet Syngenta standards for Foundation Seed.

S38-E9 is uniform and stable within a purity level of 99% (98% for hilum color). During the five years of testing and three cycles of seed increase, we have observed no variants. Any off-type plants removed from increase fields were assumed to have arisen from admixture or out-crossing. Varietal purity will be maintained using progeny rows as needed for the life of the variety.

Exhibit B

Statement of Distinctness for the Variety S38-E9

Soybean variety S38-E9 is most like the varieties S 35-35 and Pioneer Brand 93B81. It can be differentiated from S 35-35 on the basis of tolerance to sulfonylurea herbicide. S38-E9 is tolerant to sulfonylurea; S35-35 if susceptible. S38-E9 can be differentiated from 93B81 on the basis of resistance to Race 3 of *Phytophthora megasperma*. S38-E9 is resistant to Race 3; 93B81 is susceptible.

EXHIBIT C (Soybean)

U.S. DEPARTMENT OF AGRICULTURE AGRICULTURAL MARKETING SERVICE LIVESTOCK, MEAT, GRAIN & SEED DIVISION PLANT VARIETY PROTECTION OFFICE BELTSVILLE, MARYLAND 20705

OBJECTIVE DESCRIPTION OF VARIETY

SOYBEAN (Glycine max L.)

NAME OF APPLICANT(S)	TEMPORARY DESIGNATION VARIETY NAME
Syngenta Seeds, Inc.	J565341 (X038STS) S38-E9
ADDRESS (Street and No., or R.F.D. No., City, State, and Zip Code	e) FOR OFFICIAL USE ONLY
P.O Box 959	PVPO NUMBER
Minneapolis, MN 55440	200100206
	iety in the features described below. When the number of significant digit place a zero in the first box when number is 9 or less (e.g., $\boxed{0}$ $\boxed{9}$).
1. SEED SHAPE:	$oldsymbol{\mathbb{C}}$
2	
1 = Spherical (L/W, L/T, and T/W ratios = < 1.2) 3 = Elongate (L/T ratio > 1.2; T/W = < 1.2)	^ 2 = Spherical Flattened (L/W ratio > 1.2; L/T ratio = < 1.2) 4 = Elongate Flattened (L/T ratio > 1.2; T/W > 1.2)
	The English of the Control of the Co
2. SEED COAT COLOR: (Mature Seed)	
1 = Yellow 2 = Green 3 = Brown	4 = Black 5 = Other (Specify)
3. SEED COAT LUSTER: (Mature Hand Shelled Seed)	
1 = Dull ('Corsoy 79'; 'Braxton') 2 = Shiny ('Nebso	y'; 'Gasoy 17')
4. SEED SIZE: (Mature Seed)	
1 3 Grams per 100 seeds	
5. HILUM COLOR: (Mature Seed)	
6 1 = Buff 2 = Yellow 3 = Brown 4 May contain up to 2% other	F = Gray 5 = Imperfect Black 6 = Black 7 = Other (Specify)
6. COTYLEDON COLOR: (Mature Seed)	II L CM
S. COTT ELSON COLONIA (MALANCESCO)	
1 = Yellow 2 = Green	
7. SEED PROTEIN PEROXIDASE ACTIVITY:	
2 1 = Low 2 = High	
8. SEED PROTEIN ELECTROPHORETIC BAND:	
1 = Type A (SP1 ^a) 2 = Type B (SP1 ^b)	
9. HYPOCOTYL COLOR:	
1 = Green only ('Evans'; 'Davis') 2 = Green with 3 = Light Purple below cotyledons ('Beeson'; 'Pickett 71') 4 = Dark Purple extending to unifoliate leaves ('Hodgson'; 'C	bronze band below cotyledons ('Woodworth'; 'Tracy') Coker Hampton 266A')
O. LEAFLET SHAPE:	
3 1 = Lanceolate 2 = Oval 3 = Ovate	4 = Other (Specify)

11. LEAF	LET SIZE:		
2	1 = Small ('Amsoy 71'; 'A5312') 3 = Large ('Crawford'; 'Tracy')	2 = Medium ('Corsoy 79'; 'Gasoy 17')	000100000
			200100206
12. LEAF	1 = Light Green ('Weber'; 'York') 3 = Dark Green ('Gnome'; 'Tracy')	2 = Medium Green ('Corsoy 79'; 'Braxtor	n
13. FLOW	/ER COLOR:		
2	1 = White 2 = Purple	3 = White with purple throat	
14, POD 0	COLOR:		
1	1 = Tan 2 = Brown 3	= Black	
15. PLAN	T PUBESCENCE COLOR:		
2	1 = Gray 2 = Brown (Tawny)		
16. PLAN	T TYPES:		
2	1 = Slender ('Essex'; 'Amsoy 71') 3 = Bushy ('Gnome'; 'Govan')	2 = Intermediate ('Amcor'; 'Braxton')	
17. PLAN	T HABIT:		
3	1 = Determinate ('Gnome'; 'Braxton') 3 = Indeterminate ('Nebsoy'; 'Improved Pelica	2 = Semi-Determinate ('Will') on')	
18. MATU	RITY GROUP:		
6	1 = 000 2 = 00 3 = 0 9 = VI 10 = VII 11 = VIII	4 = 1 5 = II 6 = III 12 = IX 13 = X	7 = IV 8 = V
19. DISEA	SE REACTION: (Enter 0 = Not Tested; 1 = Sus	ceptible; 2 = Resistant)	
	TERIAL DISEASES:		
0	Bacterial Pustule (Xanthomonas phaseoli var.	sojensis)	
0	Bacterial Blight (Pseudomonas glycinea)		
	Wildfire (Pseudomonas tabaci)		
EUNG/	AL DISEASES:		
0	Brown Spot (Septoria glycines)		
ات ا			
	Frogeye Leaf Spot (Cercospora sojina) Race 1 Race 2 Race	3 Race 4 Race 5	Other (Specify)
0	Target Spot (Corynespora cassiicola)		Susc. to common race in Arkansas
o	Downy Mildew (Peronospora trifoliorum var. n	nanshurica)	
	Powdery Mildew (Microsphaera diffusa)		
	Brown Stem Rot (Cephalosporium gregatum)		
2	Stem Canker (Diaporthe phaseolorum var. caul	<i>ivoral</i> Moderately resista	int

19. DISEA	SE REACTION	: (Enter 0 = Not Tested; 1 = Susceptible; 2 =	Resistant) (Continued)					
FUN	GAL DISEASE	S: (Cantinued)		00040000				
1	Pod and Stem	Blight <i>(Diaporthe phaseolorum</i> var; <i>sojae)</i>		200100206				
	Purpte Seed S	itain <i>(Cercospora kikuchii)</i>	,					
	Rhizoctonia I	Root Rot <i>(Rhizoctonia solani)</i>						
ليكا	Phytophthora	Rot (Phytophthora megasperma var. sojae)						
2	Race 1	Race 2 2 Race 3 1	Race 4 Race 5	Race 6 2 Race 7				
	Race 8	Race 9 Other (Specify)	Rps1-C					
VIRA	AL DISEASES:							
0	Bud Blight (T	obacco Ringspot Virus)						
0	Yellow Mosai	c (Bean Yellow Mosaic Virus)						
0	Cowpea Mosa	ic (Cowpea Chlorotic Virus)						
<u></u>	O Pod Mottle (Bean Pod Mottle Virus)							
Seed Mottle (Soybean Mosaic Virus)								
NEMATODE DISEASES:								
Soybean Cyst Nematode (Heterodera glycines)								
	Race 1 Race 2 Race 3 Race 4 1 Other (Specify) Race 14							
Lance Nematode (Hoplolaimus Colombus)								
	Southern Root Knot Nemateds (Majoideguna incognita)							
	Southern Root Knot Nematode (Meloidogyne incognita) Northern Root Knot Nematode (Meloidogyne Hapla)							
		•						
		(not Nematode (Meloidogyne arenaria)						
		natode (Ratylenchulus reniformis)						
	OTHER DISE	ASE NOT ON FORM (Specify):						
20. PHYSIC	20. PHYSIOLOG!CAL RESPONSES: (Enter 0 = Not Tested; 1 = Susceptible; 2 = Resistant)							
0 Iron Chlorosis on Calcareous Soil								
Other (Specify)								
21. INSECT REACTION: (Enter 0 = Not Tested; 1 = Susceptible; 2 = Resistant)								
Mexican Bean Beetle (Epilachna varivestis)								
O Potato Leaf Hopper (Empoasca fabae)								
Other (Specify)								
22 INDICA		RIETY MOST CLOSELY RESEMBLES THA	T SUBMITTED.					
	ACTER	NAME OF VARIETY	CHARACTER	NAME OF VARIETY				
Plant Sha	······	S39-D9	Seed Coat Luster	S35-35				
Leaf Sha	pe	S46-W8	Seed Size	S35-35				
Leaf Cold	or	S42-H1	Seed Shape	S35-35				
Leaf Size		S46-W8	Seedling Pigmentation	AG3701				

VARIETY	NO. OF DAYS	PLANT LODGING	CM PLANT	LEAFLET SIZE		SEED CONTENT		SEED SIZE G/100	NO.
	MATURITY	SCORE	HEIGHT	CM Width	CM Length	% Protein	% Oil	SEEDS	SEEDS/ POD
Submitted	125	3 🕯 1	86	7	12	39.5	20.7	13.4	
S42-H1				· · · · · · · · · · · · · · · · · · ·					
Name of Similar Variety	129	3.2	95	6	12	42.0	20.2	13.9	

PUBLICATIONS USEFUL AS REFERENCE AIDS FOR COMPLETING THIS FORM:

- 1. Caldwell, B.E., ed. 1973. Soybeans: Improvement, Production, and Uses. Amer. Soc. Agron. Monograph No. 16.
- 2. Buttery, B.R. and R.I. Buzzell. 1968. Peroxidase activity in seeds of soybean varieties. Crop Sci., 8: 722-725.
- 3. Hymowitz, T. 1973. Electrophoretic analysis of SBTI-A2 in the USDA soybean germplasm collection. Crop Sci., 13: 420-421.
- 4. Payne, R.C. and L.F. Morris. 1976. Differentiation of soybean cultivars by seedling pigmentation patterns. J. Seed Technol. 1: 1-19.

U.S. DEPARTMENT OF AGRICULTURE AGRICULTURAL MARKETING SERVICE	The following statements are ma	FORM APPROVED - OMB NO. 0581-00 de in accordance with the Privacy Act
The state of the s	1974 (5 U.S.C. 552a) and the Pay	perwork Reduction Act (PRA) of 1995.
EXHIBIT E	Application is required in order	o determine if a plant variety protect
STATEMENT OF THE BASIS OF OWNERSHIP	certificate is to be issued (7 U.S. until certificate is issued (7 U.S.C.	u. 4741). IOIOCOStop in hits
1. NAME OF APPLICANT(S)	2. TEMPORARY DESIGNATION	3. VARIETY NAME
Syngenta Seeds, Inc.	OR EXPERIMENTAL NUMBER	· ·
	J565341 (X038S	rs) s38-E9
, ·		
4. ADDRESS (Street and No., or R.F.D. No., City, State, and ZIP Code, and Country)	5. TELEPHONE (include area code)	6. FAX (include area code)
P.O Box 959	763-593-7333	763-593-7108
Minneapolis, MN 55440		
	7. PVPO NUMBER 0 0 1	00206
8. Does the applicant own all rights to the variety? Mark an "X" in appropriate	block. If no, please explain.	
, , , , , , , , , , , , , , , , , , ,	and an analysis of plants	X YES NO
		•
	· · · · · · · · · · · · · · · · · · ·	
. Is the applicant (individual or company) a U.S. national or U.S. based/compan	v?	
If no, give name of country		X YES NO
0. Is the applicant the original owner? X YES NO # no, please an		
VES NO If no, please an	swer the fallowing:	
m 16 militari victor as 1.		
a. If original rights to variety were owned by individual(s), is (are) t	he original owner(s) a U.S. nation	al(s)?
YES NO If no, give name of country	· · · · · · · · · · · · · · · · · · ·	
b. If original rights to variety were owned by a company, is the original		
YES NO If no, give name of country	· · · · · · · · · · · · · · · · · · ·	
1. Additional explanation on ownership (If needed, use reverse for extra space):		
		•
EACE MOTE.		
LEASE NOTE:		
JEASE NOTE:	ne of the following criteria:	
nt variety protection can be afforded only to owners (not licensees) who meet o		2014
nt variety protection can be afforded only to owners (not licensees) who meet o	na a 11 C. national national of a 11	POV member country, or national
nt variety protection can be afforded only to owners (not licensees) who meet of If the rights to the variety are owned by the original breeder, that person must of a country which affords similar protection to nationals of the U.S. for the san	pe a U.S. national, national of a U ne genus and species.	
nt variety protection can be afforded only to owners (not licensees) who meet of	pe a U.S. national, national of a Une genus and species.	hall C based owned by
If the rights to the variety are owned by the original breeder, that person must lof a country which affords similar protection to nationals of the U.S. for the san lift the rights to the variety are owned by the company which employed the originationals of a UPOV member country, or owned by nationals of a country which genus and species.	pe a U.S. national, national of a Une genus and species. The definition of a Unit of the genus and species. The affords similar protection to national of a Unit of the Company must be affords similar protection to national of the Company must be affords similar protection to national of the Company must be affords similar protection to national of the Company must be a U.S. and the U.S.	be U.S. based, owned by onals of the U.S. for the same
If the rights to the variety are owned by the original breeder, that person must lobe a country which affords similar protection to nationals of the U.S. for the san lift the rights to the variety are owned by the company which employed the originationals of a UPOV member country, or owned by nationals of a country which	pe a U.S. national, national of a Une genus and species. The genus and species and breeder(s), the company must a affords similar protection to nation and the applicant must meet or	be U.S. based, owned by onals of the U.S. for the same e of the above criteria.

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collection is estimated to average 10 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering

and maintaining the data needed, and completing and reviewing the collection of information.

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